

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the matter of

Sound Around Inc.

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File No. EB-09-SE-205

CITATION

**ILLEGAL MARKETING OF RADIO FREQUENCY DEVICES
CAPABLE OF OPERATING ON RESTRICTED FREQUENCIES**

Adopted: July 5, 2011

Released: July 7, 2011

By the Acting Chief, Spectrum Enforcement Division, Enforcement Bureau:

1. This is an official **CITATION** issued pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (“Communications Act”),¹ to Sound Around Inc. (“Sound Around”) for marketing in the United States radiofrequency devices that operate on restricted frequencies in violation of section 302(b) of the Communications Act and sections 2.803 and 15.205(a) of the rules (“Rules”) of the Federal Communications Commission (“Commission”),² and for marketing wireless microphones that are capable of operating in the 700 MHz band (698-806 MHz) in violation of section 74.851(g) of the Rules.³

2. Sound Around should take immediate steps to come into compliance and to avoid any recurrence of this misconduct, including removing from display (including online display) all wireless microphones capable of operating in the 700 MHz frequency band. As explained below and as provided in the Communications Act, future violations of the Rules in this regard may subject Sound Around to monetary forfeitures.

I. BACKGROUND

3. During the course of an investigation of an unrelated complaint, the Spectrum Enforcement Division (“Division”) of the Commission’s Enforcement Bureau observed that Sound Around was apparently marketing on its website, www.pyleaudio.com, four models of wireless microphones that operate in restricted frequency bands.⁴ By letter of inquiry (“LOI”) dated September

¹ 47 U.S.C. § 503(b)(5).

² 47 U.S.C. § 302a(b); 47 C.F.R. §§ 2.803, 15.205(a).

³ 47 C.F.R. § 74.851(g).

⁴ Advertisements for models PDWM94, PDWM96, PDWM3000 and PDWM5500 were observed on Sound Around’s web site on September 29, 2009. Information on the web site indicated that these devices operate on frequencies 114-116 MHz (Models PDWM94 and PDWM96); 232.4-261.0 MHz (Model PDWM3000); and 210-280 MHz (Model PDWM5500). These advertisements remain on Sound Around’s web site. See <http://www.pyleaudio.com/itemdetail.asp?model=PDWM94>.

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30, 2009, the Division initiated an investigation into whether Sound Around was marketing in the United States uncertified wireless microphones that operate within restricted frequency bands.⁵ On November 18, 2009, having not received a response to the September 30, 2009 LOI, the Division resent the LOI to Sound Around.

4. In its December 6, 2009 response to the LOI,⁶ Sound Around admits to importing and marketing the wireless microphones in the United States and states that it purchased the devices from a company based in China.⁷ Sound Around also provides a marketing flyer that confirms that two of the wireless microphones, Models PDWM94 and PDWM96, operate on frequencies 114-116 MHz,⁸ which are within the 108-121.94 MHz restricted frequency band. The marketing flyer also indicates that Models PDWM3000 and PDWM5500 operate on frequencies 232.4-261.0 MHz and 210-280 MHz,⁹ respectively, which are within the 240-285 MHz restricted frequency band. Regarding authorization of the wireless microphones, Sound Around states that “based on the information provided by the manufacturer and therefore to the best of my knowledge, all products listed in inquiry (3) [the subject wireless microphones] are in fact up to spec. with all FCC technical standards.”¹⁰ In response to our request for a copy of the grant of certification or the FCC Identification Number for the wireless microphones, Sound Around further states that it had “requested the grant of certification from the manufacturer and expect for them to remit.”¹¹ Sound Around finally states that “if [the manufacturer] cannot provide within the time-frame allowed by the FCC, Sound Around Inc. will immediately cease to import the items listed in inquiry (3).”¹²

5. Because Sound Around failed to fully respond to the LOI, the Division sent a further inquiry to Sound Around on February 1, 2010.¹³ In that further inquiry, the Division again asked Sound Around to provide a copy of the grant of certification or the FCC ID Number for each of the wireless microphones that operate within restricted frequency bands. In its February 15, 2010 response to the further inquiry, Sound Around states that it was unsuccessful in obtaining the grant of certification

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<http://www.pyleaudio.com/itemdetail.asp?model=PDWM96>,

<http://www.pyleaudio.com/itemdetail.asp?model=PDWM3000> and

<http://www.pyleaudio.com/itemdetail.asp?model=PDWM5500> (visited September 29, 2009, November 18, 2009, July 21, 2010 and June 8, 2011).

⁵ See Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, to Jerry Brach, Vice President, Pyle Audio (September 30, 2009). The LOI was addressed to Pyle Audio. The Division was subsequently informed that “Pyle” is a registered trademark of Sound Around, Inc., which imports Pyle Audio brand products. Thus, this Citation is addressed to Sound Around Inc. and the company will hereinafter be referred to as Sound Around and not Pyle Audio.

⁶ See Letter from Zigmund Brach, President, Sound Around Inc., to Jacqueline Ellington, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission (December 6, 2009) (“LOI Response”).

⁷ LOI Response at 1.

⁸ LOI Response at Exhibit B.

⁹ *Id.*

¹⁰ LOI Response at 2.

¹¹ *Id.*

¹² *Id.*

¹³ See Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, to Jerry Brach, Vice President, Sound Around Inc. (February 1, 2010).

although it had made repeated requests to the manufacturer.¹⁴ To date, Sound Around still has not provided any proof that these four models of wireless microphones have been certified and a review of the Commission's Equipment Authorization Database reveals that no certifications have been issued under the manufacturer's name.¹⁵

6. Additionally, a subsequent review by Division staff of Sound Around's web site revealed that Sound Around also was marketing wireless microphone Model PDWM2600 that operates within the 801-850 MHz frequency range, a portion of which is within in the 700 MHz frequency band.¹⁶

II. APPLICABLE LAW AND VIOLATIONS

7. Section 302(b) of the Communications Act states: "[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices which fail to comply with regulations promulgated pursuant to this section."¹⁷ The applicable implementing regulations are set forth in sections 2.803, 15.201, and 15.3(o) of the Rules.

Specifically, section 2.803(a)(1) of the Rules provides:

[N]o person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless: (1) In the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled as required by § 2.925 and other relevant sections in this chapter....¹⁸

Additionally, section 2.803(g) of the Rules provides in pertinent part that:

[R]adio frequency devices that could not be authorized or legally operated under the current rules ... shall not be operated, advertised, displayed, offered for sale or lease, sold or leased, or otherwise marketed absent a license issued under part 5 of this chapter or a special temporary authorization issued by the Commission.¹⁹

Further, pursuant to section 15.201(b) of the Rules,²⁰ intentional radiators,²¹ such as wireless microphones, must be authorized in accordance with the Commission's certification procedures described in sections 2.1031 – 2.1060 of the Rules²² prior to the initiation of marketing in the United States.²³

¹⁴ See Letter from Zigmond Brach, President, Sound Around Inc., to Jacqueline Ellington, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission (February 15, 2010), at 1.

¹⁵ See <https://fjallfoss.fcc.gov/oetcf/eas/reports/GenericSearch.cfm>.

¹⁶ See <http://www.pyleaudio.com/itemdetail.asp?model=PDWM2600>. The Division observed this wireless microphone displayed on Sound Around's web site on September 17, 2010, September 29, 2010 and June 9, 2011.

¹⁷ 47 U.S.C. § 302a(b).

¹⁸ 47 C.F.R. § 2.803(a)(1).

¹⁹ 47 C.F.R. § 2.803(g).

²⁰ 47 C.F.R. § 15.201(b).

²¹ Section 15.3(o) of the Rules defines an "intentional radiator" as a "device that intentionally generates and emits radio frequency energy by radiation or induction." 47 C.F.R. § 15.3(o).

²² 47 C.F.R. §§ 2.1031 – 2.1060.

8. Commission Rules expressly prohibit the marketing of wireless microphones that can operate in the 700 MHz frequency band.²⁴ Specifically, section 74.851(g) of the Rules prohibits the manufacture, importation, sale, lease, offer for sale or lease, or shipment of wireless microphones and other low power auxiliary stations intended for use in the 700 MHz frequency band in the United States.²⁵

9. Based on the information provided by Sound Around, wireless microphone Models PDWM94, PDWM96, PDWM3000, and PDWM5500 are ineligible for certification and therefore cannot be marketed in the United States. Specifically, Sound Around confirmed that these wireless microphone models operate within restricted frequency bands listed in section 15.205(a) of the Rules.²⁶ Thus, these devices cannot comply with the FCC's technical standards, cannot be certified as required by Commission Rules, and consequently cannot be marketed within the United States.²⁷ Moreover, the Division observed wireless microphone Model PDWM2600 on Sound Around's web site. The marketing of this wireless microphone, which is capable of operating within the 700 MHz frequency band, is prohibited by section 74.851(g) of the Rules.

10. We therefore issue this Citation to Sound Around for violating the Commission's Rules as discussed above. Sound Around should take immediate steps to ensure that it does not continue to violate the Commission's Rules, including removing from display (including online display) all wireless microphones that are capable of operating in the 700 MHz frequency band. To the extent that Sound Around markets wireless microphones that operate outside the 700 MHz frequency band, such as in the core TV bands (channels 2-51, excluding channel 37), it should review the Commission Rules that apply to such devices.²⁸

III. FUTURE COMPLIANCE

11. If, after receipt of this Citation, Sound Around violates the Communications Act or the Commission's Rules by engaging in conduct of the type described herein, the Commission may impose monetary forfeitures of up to \$16,000 for each such violation or each day of a continuing violation and up

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²³ Section 2.803(e)(4) of the Rules defines "marketing" as the "sale or lease, or offering for sale or lease, including advertising for sale or lease, or importation, shipment or distribution for the purpose of selling or leasing or offering for sale or lease." 47 C.F.R. § 2.803(e)(4).

²⁴ See *FCC Adopts Order to Clear the 700 MHz Frequency for Public Safety and Next Generation Consumer Users*, News Release, 2010 WL 176680 (2010); and *Revisions to Rules Authorizing the Operation of Low Power Auxiliary Stations in the 698-806 Band*, Report and Order and Further Notice of Proposed Rulemaking, 25 FCC Rcd 643 (2010). Effective June 12, 2010, operation of wireless microphones in the 700 MHz frequency band is prohibited.

²⁵ 47 C.F.R. § 74.851(g).

²⁶ Section 15.205(a) allows intentional radiators to transmit only spurious emissions in the restricted frequency bands. Section 2.1 defines spurious emissions as "[e]mission[s] on a frequency or frequencies which are outside the necessary bandwidth and the level of which may be reduced without affecting the corresponding transmission of information. Spurious emissions include harmonic emissions, parasitic emissions, intermodulation products and frequency conversion products, but exclude out-of-band emissions." The subject wireless microphones intentionally transmit radio frequency energy on restricted frequencies in the 114-116 MHz and 240-280 MHz bands.

²⁷ Certain wireless microphones may be certified for use as licensed low power auxiliary stations under Part 74 of the Rules. See 47 C.F.R. §§ 74.801, 74.851. We note, however, that these four models of wireless microphones do not operate on frequencies allocated for low power auxiliary stations under Part 74. See 47 C.F.R. § 74.802. Accordingly, these wireless microphones are not eligible for certification as Part 74 devices.

²⁸ See e.g. 47 C.F.R. §§ 15.216, 74.802(e). The Commission's Rules are available at <http://www.access.gpo.gov/cgi-bin/cfrassemble.cgi?title=201047>.

to \$112,500 for any single act or failure to act.²⁹ In addition, violations of the Act or the Rules can result in seizure of equipment through *in rem* forfeiture actions, as well as criminal sanctions, including imprisonment.³⁰

12. Sound Around may respond to this Citation within thirty (30) days after the release date of the Citation either by (1) requesting a personal interview at the Commission's Field Office nearest to its place of business, or (2) submitting a written statement. Sound Around's written statement should specify the actions that it is taking to correct the violations outlined above and to ensure that it does not violate the Commission's Rules governing the marketing of radio frequency devices in the future. Please reference EB file number EB-09-SE-205 when corresponding with the Commission.

13. Under the Privacy Act of 1974,³¹ we also inform Sound Around that the Commission's staff will use all relevant material information before it, including information disclosed in its interview or written statement, to determine if further enforcement action is required to ensure compliance with the Communications Act and the Commission's Rules. Please also note that section 1.17 of the Rules requires that Sound Around provide truthful and accurate statements to the Commission.³² In addition, the knowing and willful making of any false statement, or the concealment of any material fact, in reply to this Citation is punishable by fine or imprisonment.³³

IV. CONTACT INFORMATION

14. The closest FCC office is the New York Field Office in New York, New York. Please call Karen Mercer at (202) 418-1160 if Sound Around wishes to schedule a personal interview. The interview should take place within thirty (30) days after the release date of this Citation. Send any written statement within thirty (30) days after the release date of this Citation to:

John D. Poutasse
Acting Chief, Spectrum Enforcement Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W., Rm. 3-C366
Washington, D.C. 20554
Re: EB File No. EB-09-SE-205

15. Reasonable accommodations for people with disabilities are available upon request. Include a detailed description of the accommodation(s) needed. Also include a way we can contact Sound Around if we need more information. Please allow at least five (5) days advance notice; last

²⁹ See 47 U.S.C. § 401, 501, 503; 47 C.F.R. § 1.80(b)(3). This amount is subject to further adjustment for inflation (*see id.* § 1.80(b)(5)), and the forfeiture amount applicable to any violation will be determined based on the statutory amount designated at the time of the violation.

³⁰ See 47 U.S.C. § 510.

³¹ See 5 U.S.C. § 552a(e)(3).

³² 47 C.F.R. § 1.17 ("... no person subject to this rule shall; (1) In any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading; and (2) In any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.").

³³ See 18 U.S.C. § 1001.

minute requests will be accepted, but may be impossible to fill. Send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau:

For sign language interpreters, CART, and other reasonable accommodations:
202-418-0530 (voice), 202-418-0432 (tty).

To request this document in accessible formats for people with disabilities (braille, large print, electronic files, audio format): 202-418-0530 (voice), 202-418-0432 (tty).

V. ORDERING CLAUSES

16. **IT IS ORDERED** that a copy of this Citation shall be sent both by First Class U.S. Mail and by Certified Mail, Return Receipt Requested to Sound Around Inc. at its address of record, Mr. Zigmond Brach, President, Sound Around Inc., 1600 63rd Street, Brooklyn, NY 11204.

FEDERAL COMMUNICATIONS COMMISSION

John D. Poutasse
Acting Chief, Spectrum Enforcement Division
Enforcement Bureau